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Attorneys for BUDDY WEBSTER

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

BUDDY WEBSTER p/k/a BUDDY BLAZE,

Plaintiff,

v.

DEAN GUITARS; ARMADILLO ENTERPRISES, INC.; ARMADILLO DISTRIBUTION ENTERPRISES, INC.; ESTATE OF DIMEBAG DARRELL ABBOTT, an unknown entity; and DOES 1 – 10 inclusive.

Defendants.

Case No. 2-cv-17-3027

COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT

JURY TRIAL REQUESTED

Plaintiff BUDDY WEBSTER p/k/a BUDDY BLAZE ("WEBSTER" or "Plaintiff"), by and through his counsel Karish & Bjorgum, PC, hereby complains and alleges against DEFENDANTS DEAN GUITARS, ARMADILLO ENTERPRISES, INC., ARMADILLO DISTRIBUTION ENTERPRISES, INC., THE ESTATE OF DIMEBAG DARRELL ABBOTT, and DOES 1 – 10, inclusive, on personal knowledge as to his own actions and on information and belief as to the actions of others, as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, 17 U.S.C. § 101, *et seq*. This Court has jurisdiction over matters arising under the Copyright Act pursuant to 28 U.S.C. § 1331 (federal question actions) and 28 U.S.C. § 1338 (exclusive jurisdiction over copyright actions and concurrent jurisdiction over trademark cases).

2. Defendants are subject to the personal jurisdiction of this Court, as they are located in California or have purposefully availed themselves of the privileges of doing business in California with regard to the actions alleged herein, and such jurisdiction is reasonable.

3. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) in that, on information and belief, at least one administrator of the ESTATE OF DIMEBAG DARRELL ABBOTT resides in this District. Further Defendants are subject to the Court's personal jurisdiction because they are subject to the Court's personal jurisdiction. Venue is further appropriate in this District because this is a copyright action, with venue proper here under 28 U.S.C. § 1400.

PARTIES

4. Plaintiff BUDDY WEBSTER p/k/a BUDDY BLAZE ("WEBSTER") is an individual residing in Grand Prairie, Texas. WEBSTER was living in the Central District of California when the infringement began. WEBSTER is a well-

known guitar designer and luthier who designs custom guitars for many accomplished guitarists.

5. On information and belief, Defendant DEAN GUITARS is a business entity of unknown form with its principal place of business in Tampa, Florida. On information and belief, Defendant DEAN GUITARS intentionally copies, distributes and sells infringing products that are sold in this District, either through its authorized dealers or through mail order.

6. On information and belief, Defendant ARMADILLO ENTERPRISES, INC. is a corporation with its principal place of business in Tampa, Florida. On information and belief, Defendant ARMADILLO ENTERPRISES, INC. is a parent company of DEAN GUITARS.

7. On information and belief, Defendant ARMADILLO DISTRIBUTION ENTERPRISES INC. is a Florida corporation with its principal place of business in Tampa, Florida. On information and belief, Defendant ARMADILLO DISTRIBUTION ENTERPRISES, INC. is a parent company of DEAN GUITARS.

8. DEAN GUITARS, ARMADILLO ENTERPRISES, INC. and ARMADILLO DISTRIBUTION ENTERPRISES, INC. shall be referred to collectively herein as the “DEAN ENTITIES.” The DEAN ENTITIES derive a substantial amount of income from sales in California and travel to Anaheim, California each year for the NAMM trade show.

9. On information and belief, Defendant ESTATE OF DIMEBAG DARRELL ABBOTT (the “ABBOTT ESTATE”) is a business entity of unknown form. On information and belief, the ABBOTT ESTATE sells and/or licenses products that display infringing images of Plaintiff’s copyrighted guitar design.

10. Plaintiff is unaware of the true names and capacities, whether individual, corporate, associate or otherwise, of Defendants DOES 1 through 10 inclusive, or any of them, and therefore sues these defendants, and each of them, by fictitious names. Plaintiff will seek leave of this court to amend this complaint

when the status and identities of these defendants are ascertained.

11. Plaintiff is informed and believes, and on that basis alleges, that at all relevant times mentioned in this Complaint, Defendants were acting in concert and active participation with each other in committing the wrongful acts alleged herein, and were agents of each other and were acting within the scope and authority of that agency and with knowledge, consent and approval of one another.

GENERAL ALLEGATIONS

A. Plaintiff's Work

12. Plaintiff WEBSTER p/k/a Buddy Blaze, is a well-known luthier and designer of custom guitars. Guitarists who have used guitars made by Plaintiff include Vivian Campbell (of Def Leppard and formerly of Whitesnake), the entire band of country legend Lee Greenwood, Scott Patton (of Sugarland), Eddie Ojeda (of Twisted Sister), Terry Glaze (of Lord Tracy and formerly of Pantera), L.T. Smooth (Grammy nominated, Hoku Award winning guitarist), Stig Mathisen - Guitar Chair at Musicians Institute (M.I.), Rudy Parris (country recording artist "The Voice"), Mark Kendall (of Great White), Steve Mandile (of Six Wire band and many others), Kinley Wolfe (of Lord Tracy and formerly of The Cult), Barry Dunaway (of 38 Special and formerly of Yngwie Malmsteen band), Kent Wells (of Dolly Parton and Kenny Rogers bands), Dave Watson (of The Oakridge Boys) and many other prominent artists.

13. WEBSTER p/k/a Buddy Blaze has been a luthier and designer of guitars since the 1980's. In addition, WEBSTER worked for major guitar brands, including Kramer guitars as Director of Artist Relations.

14. In the1980's, WEBSTER was living in Arlington, Texas and befriended a young local guitarist named Darrell Abbott. Abbott was incredibly talented and was a member of the band "Pantera" which later became nationally and internationally known. One of Darrell Abbott's guitars is a model made by the Dean Guitar company, known as a Dean ML, which he won in local contest.

15. Abbott used the guitar but eventually decided to sell it. He offered it to WEBSTER. WEBSTER declined to buy it, explaining to his friend that he should not sell trophies. Abbott eventually sold it to the singer of WEBSTER'S band.

16. WEBSTER was unhappy that Abbott had sold the guitar, so WEBSTER secretly bought it back from his band's singer. WEBSTER then modified the neck of the guitar, changed some of the hardware and stripped the paint. WEBSTER designed a new visual look for the guitar, which featured a unique blue background with lightning emanating from the center of the guitar body. WEBSTER refers to this as the "lightning storm design" (the "Design").

17. WEBSTER gave the guitar to Abbott as a present, and Abbott immediately recognized that the guitar was very easy to play and had the "heavy" but articulated tone that he had been searching for. It became his signature guitar.

18. Abbott's band Pantera, which featured his brother Vincent Paul Abbott playing drums, went on to become one of the most successful heavy metal bands of the 1990's. Pantera's songs were driven by Abbott's distorted guitar riffs, which featured a unique combination of rhythm and melody. Pantera has sold over 9 million records.

19. Abbott played the guitar from WEBSTER wherever possible. It became known as the "Dean From Hell." Abbott broke the headstock several times, but he always had it fixed so that he could return to using the Dean From Hell. Here is a photo of Abbott with the original Dean From Hell:

20. An integral part of the Dean From Hell is the lightning storm graphic on the design. WEBSTER has obtained a copyright registration on the lightning storm design, a true and correct copy of which is attached hereto as Exhibit A.

21. Eventually, Pantera broke up and the Abbott brothers started a new band called Damage Plan. Tragically, in 2004, a mentally troubled fan entered a Damage Plan show with a gun and murdered Abbott on stage. The rock world was stunned.

22. Since Abbott's death, the DEAN ENTITIES have engaged in multiple re-issue campaigns of the Dean From Hell. Indeed, WEBSTER told the DEAN ENTITIES' former CEO Elliott Rubinson (who recently passed away) that the company should enter into an agreement with WEBSTER because it was copying his design. In 2008 and 2009, WEBSTER and DEAN GUITARS collaborated on a guitar that was known and marketed as the Buddy Blaze Signature Model, but it was not the Dean From Hell.

23. On information and belief, the DEAN ENTITIES' association with

Abbott is one of its most valuable artist associations. It has issued many guitars using the "Dimebag" name.

24. Eventually, WEBSTER became alarmed and disappointed that DEAN GUITARS was continuing to profit from his design without giving him credit or any payment. ABBOTT often spoke highly of WEBSTER and the guitar that became his signature guitar. WEBSTER is certain that ABBOTT would not condone continual reissues of WEBSTER's design, especially with no recognition or payment to WEBSTER. Attached as Exhibit B are true and correct copies of examples of photos of guitars using the Design, all manufactured and distributed by the DEAN ENTITIES and currently on sale. These guitars are available at dozens of retailers throughout the United States and have been used in extensive advertising campaigns for the DEAN ENTITIES.

25. WEBSTER eventually contacted DEAN GUITARS regarding the copying of the Design. DEAN GUITARS forwarded the matter to the attorneys for the ABBOTT ESTATE, which ostensibly licenses the intellectual property surrounding the Dimebag guitars to DEAN. WEBSTER was unable to reach an agreement with either of these parties, thus forcing him to bring this case.

26. On information and belief, Defendant ABBOTT ESTATE has issued licenses to the DEAN ENTITIES to use the Design on guitars and to unknown third party manufacturers that make replicas or other music memorabilia.

27. On information and belief, Defendants have the right and ability to supervise the conduct of one or all of each other's infringing activities and have a direct financial interest in one or all of each other's infringing activities.

28. On information and belief, Defendants had knowledge of the infringing conduct of one or all of each other and materially contributed to, induced or caused the infringing activity of one or all of each other.

FIRST CAUSE OF ACTION

(Copyright Infringement (17 U.S.C. § 501, *et seq.*) Against All Defendants)

29. Plaintiff realleges and reincorporates paragraphs 1- 28 above, as though set forth fully herein.

30. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Design.

31. Plaintiff is informed and believes and thereon alleges that Defendant, and each of them, copied or distributed copies of the Design and/or licensed the Design.

32. Plaintiff is informed and believes and thereon alleges that DOES 1 – 10 Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing and/or licensing directly infringing and/or derivative works from Plaintiff's Design and by producing, distributing and/or selling and/or licensing infringing copies through a network or retail or websites.

33. Defendants' infringement has caused substantial damage to Plaintiff, in an amount to be proven at trial. Plaintiff has suffered general and special damages. Defendants have also obtained profits either directly or indirectly from its infringing activities.

34. Plaintiff is informed and believes and thereon alleges that Defendants' infringing activities have continued after Plaintiff demanded that they cease and desist, so that the infringing activities are willful, intentional and malicious.

35. Defendants' infringement irreparably harms Plaintiff and leaves him without an adequate remedy at law, so that he is entitled to an injunction to halt any further infringing activity. On information and belief, Defendants, and each of them, have vicariously or contributorily infringed Plaintiff's copyright in the Design.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendants as follows:

a. That the Court order Defendants and their agents to pay monetary damage to Plaintiff in an amount sufficient to compensate him for all damages resulting from the unauthorized copying, distribution, display and sale of his work, including, but not limited to, his lost sales and disgorgement of Defendants' profits;

b. That Defendants and their agents and servants all be enjoined from licensing, selling, distributing, displaying or manufacturing items which infringe Plaintiff's copyrights on his work and from any unauthorized copying of any of Plaintiff's copyrighted work;

c. That the Court find Defendants' violation of Plaintiff's rights to be willful so that Plaintiff's award is enhanced;

d. That Plaintiff be awarded prejudgment interest as allowed by law;

e. That Plaintiff be awarded fees and costs of this action; and

f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

DATED: April 21, 2017 KARISH & BJORGUM, PC

By:
A. Eric Bjorgum
Attorneys for Plaintiff
BUDDY WEBSTER

REQUEST FOR JURY TRIAL

Pursuant to Fed.R.Civ.P. 38(b), Plaintiff hereby requests a trial by jury of all issues raised by its counterclaims which are properly triable to a jury.

Dated: April 21, 2017

Respectfully submitted,

By:______________________________
A. Eric Bjorgum
KARISH & BJORGUM PC
Attorneys for Plaintiff BUDDY WEBSTER

Exhibit A

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Acting United States Register of Copyrights and Director

Registration Number
VA 2-021-979
Effective Date of Registration:
June 04, 2016

Title

Title of Work: Lightning Storm Guitar Design"

Completion/Publication

Year of Completion: 1986
Date of 1st Publication: January 20, 2005
Nation of 1st Publication: United States

Author

- **Author:** Buddy Webster
  Pseudonym: Buddy Blaze
  Author Created: 2-D artwork
  Citizen of: United States
  Pseudonymous: Yes

Copyright Claimant

Copyright Claimant: Buddy Webster
P.O. Box 535892, Grand Prarie, TX, 75053, United States

Rights and Permissions

Name: Joyce Webster
Email: joyce@buddyblaze.com
Address: P.O. Box 535892
Grand Prarie, TX 75053 United States

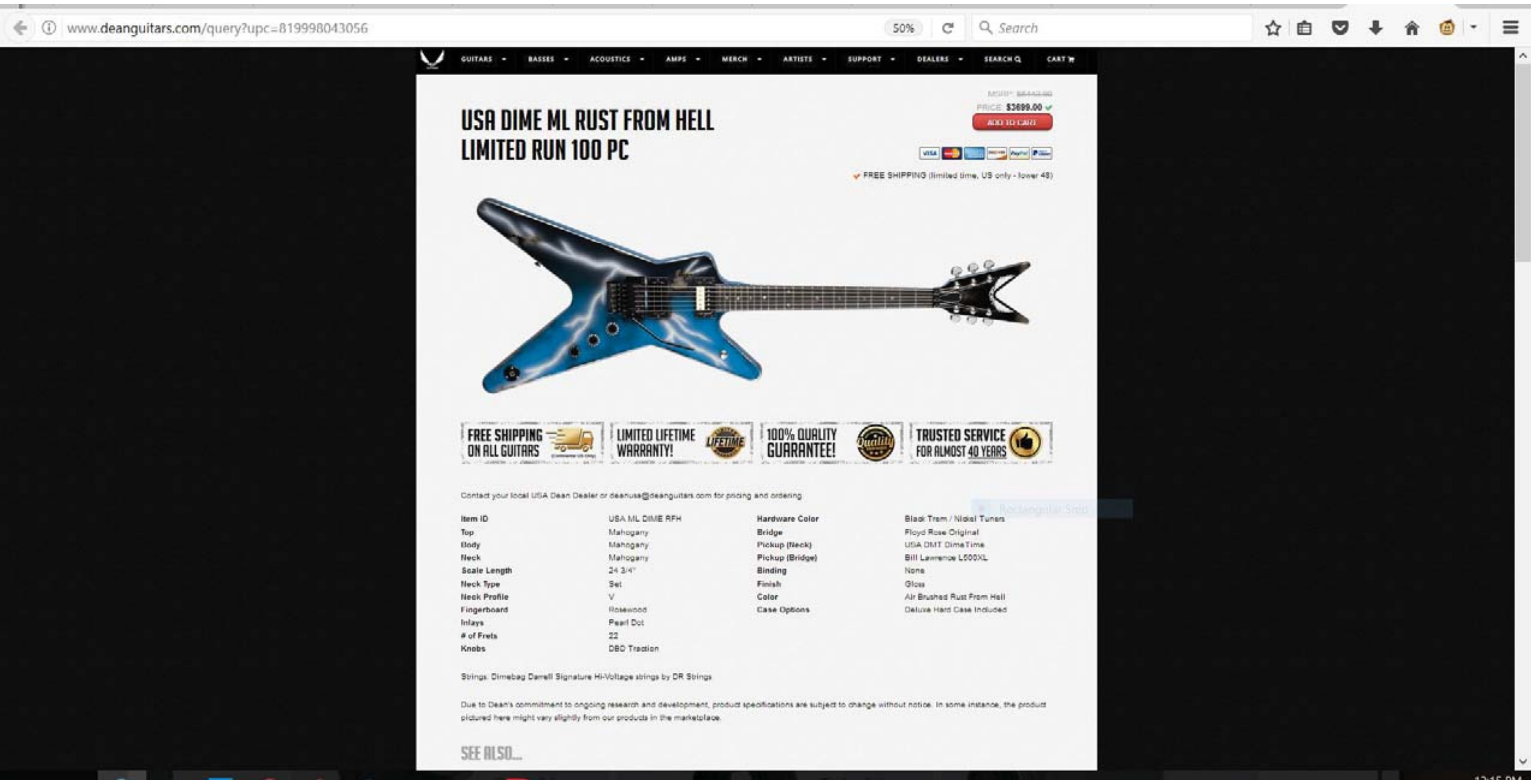
Certification

Name: Eric Bjorgum
Date: June 04, 2016
Applicant's Tracking Number: Buddy Blaze

Correspondence: Yes

0000VA0002021979O202

Exhibit B



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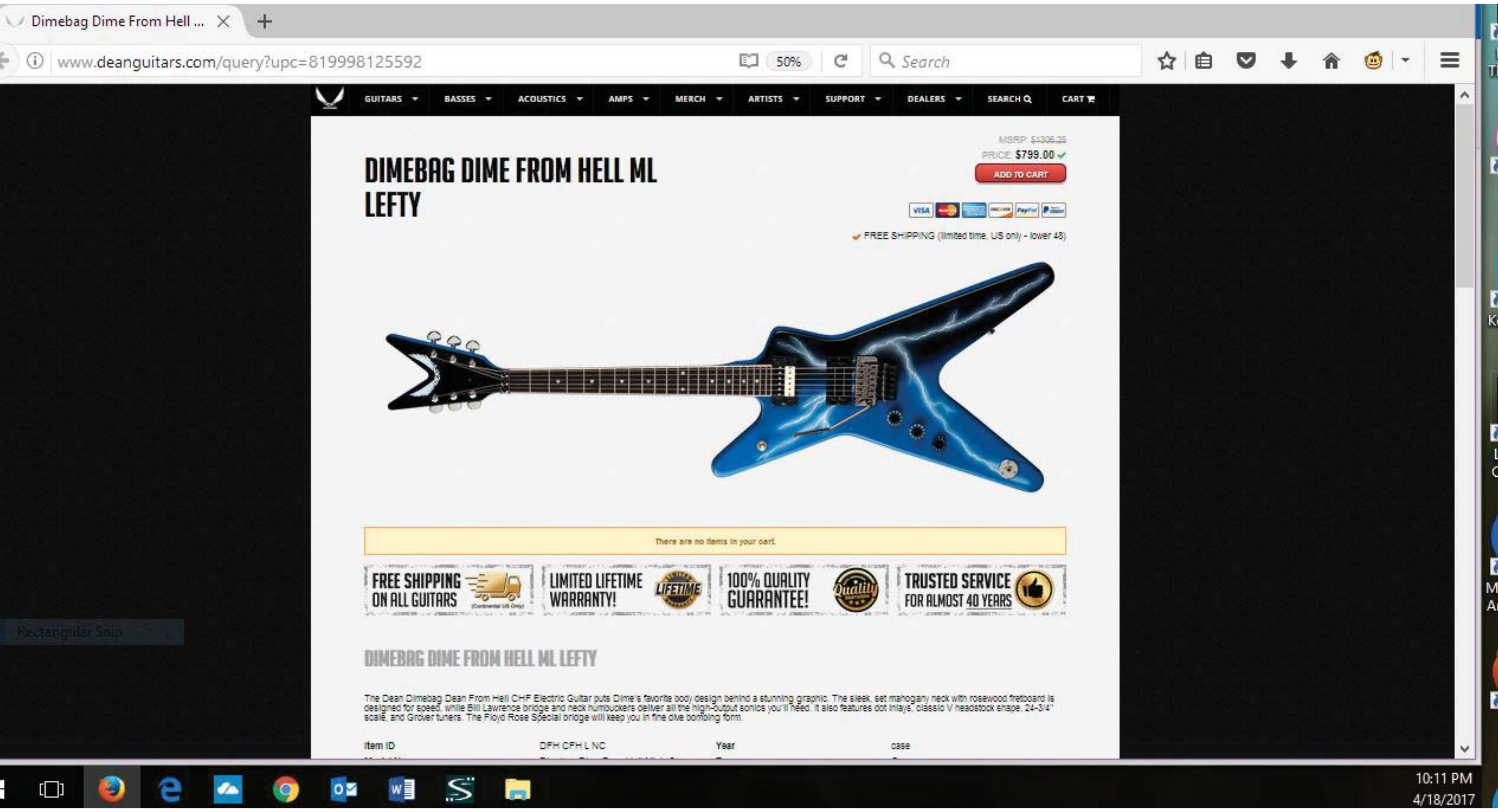
Item ID	USA ML DIME RFH	Hardware Color	Black Trem / Nickel Tuners
Top	Mahogany	Bridge	Floyd Rose Original
Body	Mahogany	Pickup (Neck)	USA DMT DimeTime
Neck	Mahogany	Pickup (Bridge)	Bill Lawrence L500XL
Scale Length	24 3/4"	Binding	None
Neck Type	Set	Finish	Gloss
Neck Profile	V	Color	Air Brushed Rust From Hell
Fingerboard	Rosewood	Case Options	Deluxe Hard Case Included
Inlays	Pearl Dot		
# of Frets	22		
Knobs	DBD Traction		

Strings: Dimebag Darrell Signature Hi-Voltage strings by DR Strings

Due to Dean's commitment to ongoing research and development, product specifications are subject to change without notice. In some instance, the product pictured here might vary slightly from our products in the marketplace.

SEE ALSO...



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